

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HERITAGE GUITAR, INC.,

Case No. 20-cv-229

Plaintiff,

Honorable Janet T. Neff

v.

Magistrate Judge Ray Kent

GIBSON BRANDS, INC.,

Defendant.

DECLARATION OF MENG RU KUOK

Pursuant to 28 U.S.C. § 1746, Meng Ru Kuok declares and states as follows:

1. My name is Meng Ru Kuok. I am the Chief Executive Officer and Co-Founder of BandLab Technologies. BandLab Technologies is a portfolio of music companies focused on providing services to music creators and fans. As part of its portfolio, BandLab Technologies is a part-owner of Heritage Guitar, Inc.
2. I provide this declaration in support of Heritage's opposition to Gibson Brand, Inc.'s motion to dismiss or, in the alternative, motion to transfer this action to the United States District Court for the Middle District of Tennessee.
3. I have personal knowledge about the information contained in this Declaration.
4. Attached to this Declaration as "Exhibit 1" is a true and correct copy of the February 6, 2019 cease and desist letter that Gibson sent to Heritage.
5. Attached to this Declaration as "Exhibit 2" is a true and correct copy of the May 1, 2019 letter Heritage sent to Gibson.
6. Marvin Lamb is a non-party witness who is expected to provide testimony in this case. Mr. Lamb is one of the original founders of Heritage and was the only Heritage employee to participate in the negotiations with Gibson that led to the 1991 settlement agreement. Mr. Lamb has not worked at Heritage since April 2016. As the only Heritage employee present during the 1991 settlement agreement negotiations, Mr. Lamb is expected to testify about the parties' intent in signing the settlement agreement and the events leading up to its signing. Mr. Lamb also designed many of Heritage's guitars and can speak to Heritage's guitar designs before and after the settlement agreement was signed. Mr. Lamb also is expected to provide testimony about Heritage's founding.

7. Mr. Lamb lives in Martin, Michigan. According to Google Maps: (a) Martin is approximately 529 miles from Nashville, Tennessee; (b) it would take Mr. Lamb approximately 8 hours to drive from Martin to Nashville; and (c) while a nonstop flight between Grand Rapids, Michigan to Nashville takes approximately one hour and twenty-five minutes, there are only two nonstop flights between Grand Rapids and Nashville each week.
8. Bill Paige is a non-party witness who is expected to provide testimony in this case. Mr. Paige joined Heritage as a co-partner in April 1985 shortly after the company was founded. Mr. Paige has not worked at Heritage since August 2018. Although Mr. Paige did not personally participate in the settlement discussions with Gibson, he is aware of the discussions and is expected to testify about, among other things, the circumstances and background of the settlement agreement and Heritage's guitar designs before and after the settlement agreement was signed.
9. Mr. Paige lives in Kalamazoo, Michigan. According to Google Maps: (a) Kalamazoo is approximately 514 miles from Nashville; (b) it would take Mr. Paige approximately 7 hours and 40 minutes to drive from Kalamazoo to Nashville; (c) while a nonstop flight between Grand Rapids, Michigan to Nashville takes approximately one hour and twenty-five minutes, there are only two nonstop flights between Grand Rapids and Nashville each week; and (d) to catch one of those two flights, Mr. Paige would have to drive about another hour.
10. Ron Howard is a non-party witness who is expected to provide testimony in this case. Mr. Howard worked at Heritage as the Marketing Manager from April 2016 to September 2018. Mr. Howard is expected to offer testimony that he never heard of anyone confusing the designs of Heritage's guitars for those of another company, including Gibson. Mr. Howard will also testify about the unique features of Heritage's guitars, such as the headstock shape which make Heritage's guitars easily identifiable in the market.
11. Mr. Howard lives in Kalamazoo, Michigan. According to Google Maps: (a) Kalamazoo is approximately 514 miles from Nashville; (b) it would take Mr. Howard approximately 7 hours and 40 minutes to drive from Kalamazoo to Nashville; (c) while a nonstop flight between Grand Rapids, Michigan to Nashville takes approximately one hour and twenty-five minutes, there are only two nonstop flights between Grand Rapids and Nashville each week; and (d) to catch one of those two flights, Mr. Howard would have to drive about another hour.
12. Kevin Romeo is a non-party witness who is expected to provide testimony in this case. Mr. Romeo works at Rhino Media, a company which does photography and videography work for Heritage. Rhino Media started working with Heritage in February 2016. Mr. Romeo is expected to offer testimony about his knowledge and awareness of Heritage and Heritage guitars even prior to starting to perform services for Heritage. Mr. Romeo also is expected to testify that he has never heard of anyone confusing the designs of Heritage's guitars for those of another company, including Gibson.

13. Mr. Romeo lives in Kalamazoo, Michigan. According to Google Maps: (a) Kalamazoo is approximately 514 miles from Nashville; (b) it would take Mr. Romeo approximately 7 hours and 40 minutes to drive from Kalamazoo to Nashville; (c) while a nonstop flight between Grand Rapids, Michigan to Nashville takes approximately one hour and twenty-five minutes, there are only two nonstop flights between Grand Rapids and Nashville each week; and (d) to catch one of those two flights, Mr. Romeo would have to drive about another hour.
14. Jim Deurloo is a witness who is expected to provide testimony in this case. Mr. Deurloo was one of the founders of Heritage. Mr. Deurloo held the position of co-owner and co-partner of Heritage from April 1, 1985 through April 1, 2016. Mr. Deurloo still works at Heritage today on the production floor three or four days a week. Mr. Deurloo is one of the few individuals who has been involved in the designs of Heritage's guitars over the entire nearly 40 years Heritage has been in business. Mr. Deurloo is further expected to testify that he has never heard of anyone confusing the designs of Heritage's guitars for those of another company, including Gibson.
15. Mr. Deurloo currently resides in Kalamazoo, Michigan. According to Google Maps: (a) Kalamazoo is approximately 514 miles from Nashville; (b) it would take Mr. Deurloo approximately 7 hours and 40 minutes to drive from Kalamazoo to Nashville; (c) while a nonstop flight between Grand Rapids, Michigan to Nashville takes approximately one hour and twenty-five minutes, there are only two nonstop flights between Grand Rapids and Nashville each week; and (d) Mr. Deurloo would also have to drive about another hour from Kalamazoo to the Gerald R. Ford International Airport.
16. Jeff Nicholson is a witness who is expected to provide testimony in this case. Mr. Nicholson became part owner of Heritage in 2016. Mr. Nicholson will testify, among other things, that he has never heard of anyone confusing the designs of Heritage's guitars for those of another company, including Gibson.
17. Mr. Nicholson currently resides in Kalamazoo, Michigan. According to Google Maps: (a) Kalamazoo is approximately 514 miles from Nashville; (b) it would take Mr. Nicholson approximately 7 hours and 40 minutes to drive from Kalamazoo to Nashville; (c) while a nonstop flight between Grand Rapids, Michigan to Nashville takes approximately one hour and twenty-five minutes, there are only two nonstop flights between Grand Rapids and Nashville each week; and (d) Mr. Nicholson would also have to drive about an another hour from Kalamazoo to the Gerald R. Ford International Airport.
18. Archie Leach is a witness who is expected to provide testimony in this case. Mr. Leach became part owner of Heritage in 2016. Mr. Leach conducted due diligence on Heritage prior to the 2016 transaction and was involved in the operations of the business from 2016-2017. Mr. Leach will testify, among other things, that he has never heard of anyone confusing the designs of Heritage's guitars for those of another company, including

Gibson.

19. Mr. Leach currently resides in London, Ontario, Canada and spends significant time in Kalamazoo, where he owns several businesses. According to Google Maps:
(a) Kalamazoo is approximately 514 miles from Nashville; (b) it would take Mr. Leach approximately 7 hours and 40 minutes to drive from Kalamazoo to Nashville; (c) while a nonstop flight between Grand Rapids, Michigan to Nashville takes approximately one hour and twenty-five minutes, there are only two nonstop flights between Grand Rapids and Nashville each week; and (d) Mr. Leach would also have to drive about an another hour from Kalamazoo to the Gerald R. Ford International Airport. According to Google Maps: (a) London, Ontario is approximately 653 miles from Nashville; (b) it would take Mr. Leach approximately 10 hours and 9 minutes to drive from London, Ontario to Nashville; (c) a nonstop flight between Toronto and Nashville is over two hours, ranging between 2 hours 5 minutes and 2 hours 27 minutes; (d) Mr. Leach would need to drive approximately two hours to the Toronto Pearson International Airport before boarding the two-hour-plus flight to Nashville.
20. Heritage currently employs 29 people. Given the relatively small size of Heritage, Mr. Deurloo plays an essential role within the day-to-day operations of the company. If Mr. Deurloo was required to travel to Nashville, Tennessee for an extended period to attend a trial of this matter, it would significantly impede his ability to run and operate Heritage.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 11, 2020.

Kuok Meng Ru

Meng Ru Kuok